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# Third Committee

**Summary record of the 46th meeting**
Held at Headquarters, New York, on Monday, 24 November 2008, at 10 a.m.

*Chairman*: Mr. Majoor ..... (Netherlands)

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08-61625 (E)

*The meeting was called to order at 10.25 a.m.*

**Agenda item 62: Elimination of racism and racial discrimination** (*continued*)

**(a) Elimination of racism, racial discrimination, xenophobia and related intolerance** (*continued*) (A/C.3/63/L.53/Rev.1 and A/C.3/63/L.72)

*Draft resolution A/C.3/63/L.53/Rev.1: International Convention on the Elimination of All Forms of Racial Discrimination (continued)*

1. **The Chairman** invited any members who wished to do so to make an explanation of vote after the vote on draft resolution A/C.3/63/L.53/Rev.1, which had been adopted at the previous meeting.

2. **Mr. Kurosaki** (Japan) said that although Japan had traditionally sponsored the annual resolution on the subject, and although it too was concerned about the serious backlog of periodic reports in the Committee on the Elimination of Discrimination, the solution proposed in the draft resolution had programme budget implications of the kind that were impairing the normal functioning of the United Nations financial system, and Japan, while voting in favour of the draft resolution, had therefore withdrawn its sponsorship. In the Organization's straitened financial circumstances, only the most cost-effective measures should be proposed and the costs should be covered by existing resources wherever possible. The Committee should strive to dispose of its backlog within the specified period and should continue to improve its working methods.

3. **Mr. Sng** Tek Yean (Singapore) said that although Singapore was not a party to the Convention, his delegation had supported the draft resolution because it was important for States parties to fulfil their reporting obligations under the Convention.

4. **Mr. Babadoudou** (Benin), speaking on a procedural point, noted that since the Committee had voted on draft resolution A/C.3/63/L.53/Rev.1 at the previous meeting under rule 129 of the rules of procedure of the General Assembly, the recorded vote had been taken not because Egypt had requested it but because a separate vote had been requested on a part of that draft resolution.

**Agenda item 63: Right of peoples to self-determination** (*continued*) (A/C.3/63/L.50/Rev.1)

*Draft resolution A/C.3/63/L.50/Rev.1: Use of mercenaries as a means of violating human rights and impeding the exercise of peoples' self-determination*

5. **Mr. Khane** (Secretary of the Committee), referring to the programme budget implications of the draft resolution, said that, in connection with paragraph 19, the total provision of $646,900 per biennium required to implement the activities of the Working Group was included in the programme budget for the biennium 2008-2009 under section 2, General Assembly and Economic and Social Council affairs and conference management ($211,700); section 23, Human rights ($427,400), and section 28 E, Administration, Geneva ($7,800). Under the terms of Human Rights Council resolution 7/21, an additional required total of $665,700 would be included in the programme budget for the biennium 2008-2009 under section 2 ($477,100); section 23 ($161,200); section 28 D, Office of Central Support Services ($19,600) and section 28 E ($7,800), to provide for additional activities mandated by the resolution. The Secretariat, in its report on revised estimates resulting from the resolutions adopted by the Human Rights Council at its seventh session, was proposing to meet the additional requirements within resources available for the biennium 2008-2009. Accordingly, should the Committee adopt the draft resolution, there would be no additional appropriation required.

6. With regard again to paragraph 19, attention was drawn to provisions of section VI of General Assembly resolution 45/248 B, in which the Assembly reaffirmed that the Fifth Committee was the appropriate Main Committee entrusted with responsibilities for administrative and budgetary matters, and reaffirmed the role of the Advisory Committee on Administrative and Budgetary Questions.

7. He also wished to inform the Committee that the following States had become sponsors of the draft resolution: Algeria, Côte d'Ivoire, the Dominican Republic, Liberia, Malawi, Malaysia, Mali, Nigeria and Sierra Leone.

8. **Ms. Pérez Álvarez** (Cuba), announced that the sponsors had been joined also by Angola, Costa Rica, El Salvador, Gambia, Kenya, Pakistan, Swaziland and Viet Nam. She noted that the text reflected the annual

resolutions on the subject, which had been adopted in the past by broad majorities.

9. *At the request of the representative of the United States, a recorded vote was taken.*

*In favour*:

Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Chad, China, Colombia, Comoros, Congo, Costa Rica, Cuba, Democratic People's Republic of Korea, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, Solomon Islands, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

*Against*:

Albania, Andorra, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Micronesia (Federated States of), Monaco, Montenegro, Netherlands, Norway, Palau, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, the former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

*Abstaining*:

Chile, Fiji, New Zealand, Switzerland, Tonga.

10. *Draft resolution A/C.3/63/L.50/Rev.1 was adopted by 122 votes to 51, with 5 abstentions.*

11. **Mr. Llanos** (Chile), speaking in explanation of vote after the vote, said that his delegation abstained because it opposed the ninth preambular paragraph. He noted that even though there was no legal instrument defining mercenary activities, that paragraph automatically equated the activities of private military and security companies and those of mercenaries.

12. **Mr. Renie** (France), speaking on behalf of the European Union; the candidate countries Croatia, the former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process countries Albania and Montenegro; and, in addition, the Republic of Moldova and Ukraine, said that while it recognized the many dangers of mercenary activities, the European Union was not convinced that the Third Committee and the Human Rights Council were the forums for discussing them; nor did it believe that the question should be approached from the viewpoint of human rights violations or as a threat to the right of peoples to self-determination. Furthermore, the elaboration of a definition of mercenaries and the links between mercenary activities and terrorism fell within the province of the Sixth Committee. Consequently, the European Union had voted against the draft resolution, although it would continue to work actively on the matter in an appropriate forum.

13. **Mr. Rastam** (Malaysia), making a general statement, said that as a supporter of the draft resolution, Malaysia was concerned at the recent rise in the use of private military or security companies in the context of conflicts, with little regulation of their conduct and duties, even though it was aware that in some situations their services would be more effective than the use of Government resources. In the absence of well-defined international standards regarding their use, human rights could easily be violated without recourse, and they could be used to impede the right to self-determination.

14. **Ms. Bustos** (Argentina), reiterating her Government's firm support for the principle of self-determination, observed that the draft resolution just adopted must be interpreted and applied in accordance with the relevant resolutions that the General Assembly and the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples had adopted on the special question of the Malvinas Islands (Falklands), in particular General Assembly resolution 2065 (XX), which had recognized that the sovereignty dispute between Argentina and the United Kingdom could be resolved only by the resumption of bilateral negotiations on a solution acceptable to the people of the Islands.

**Agenda item 39: Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions** (*continued*)
(A/C.3/63/L.58/Rev.1)

*Draft resolution A/C.3/63/L.58/Rev.1: Assistance to refugees, returnees and displaced persons in Africa*

15. **The Chairman** informed the Committee that the draft resolution contained no programme budget implications.

16. **Mr. Dhalladoo** (Mauritius), introducing the revised draft resolution on behalf of the African Group, said that although informal consultations had produced a text that reflected the overall views of the membership, due to time constraints there remained outstanding concerns that he hoped would be resolved at the following year's session. Two additional preambular paragraphs should be inserted after the six existing preambular paragraphs. The first additional preambular paragraph should read: "*Recognizing* that host States have the primary responsibility for the protection of and assistance to refugees on their territory, and the need to redouble efforts to develop and implement comprehensive durable solutions strategies, in appropriate cooperation with the international community and burden- and responsibility-sharing." The second additional preambular paragraph should read: "*Emphasizing* that States have the primary responsibility to provide protection and assistance to internally displaced persons within their jurisdiction as well as to address the root causes of the displacement problem in appropriate cooperation with the international community." He announced that Belgium, Brazil, Canada, Czech Republic, France, Greece, Ireland, Japan, Netherlands, Portugal, Spain, Sweden and the United Kingdom had joined the sponsors, and noted that Azerbaijan was already a sponsor.

17. **The Chairman** announced that Albania, Australia, Austria, Bulgaria, Bosnia and Herzegovina, Cyprus, Croatia, Denmark, Estonia, Finland, Guatemala, Honduras, Hungary, Iceland, Malta, Nicaragua, Norway, Italy, Montenegro, Luxembourg, Latvia, Lithuania, Slovakia, Slovenia, the former Yugoslav Republic of Macedonia and the United States of America had joined the list of sponsors.

18. *Draft resolution A/C.3/63/L.58/Rev.1, as orally revised, was adopted.*

19. **Ms. Pérez Álvarez** (Cuba) said that her delegation wished to express concern over the reference in the second additional preambular paragraph to States having the primary responsibility to provide protection to internally displaced persons. Her delegation's understanding was that States had full responsibility for protecting displaced persons under their jurisdiction and that the role of the international community was restricted to providing assistance upon a State's request.

20. **Mr. Tarar** (Pakistan) said that although his delegation had joined the consensus on the resolution, his country was not a party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto, and had reservations about certain elements of the resolution, such as the reference in paragraph 21 to local integration, on which it had expressed its position during the adoption of the omnibus resolution on refugees.

21. **Ms. Halabi** (Syrian Arab Republic) said that her country understood the additional preambular paragraph on internally displaced persons to mean that the State had responsibility for internally displaced persons on its territory and that the international community should provide assistance based on agreement by that State. She added that her country was not a party to the 1951 Convention relating to the Status of Refugees, and reserved the right to interpret its obligations in a manner consistent with its national law.

**Agenda item 56: Advancement of women** (*continued*) (A/C.3/63/L.73)

*Draft resolution A/C.3/63/L.73: Follow-up to the Fourth World Conference on Women and full implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly*

22. **The Chairman** informed the Committee that the draft resolution contained no programme budget implications.

23. *Draft resolution A/C.3/63/L.73 was adopted.*

24. **Mr. McMahan** (United States of America), speaking in explanation of position, said that his delegation interpreted the words "welcomes the contributions of the Committee on the Elimination of Discrimination against Women" in paragraph 3 as an acknowledgement of its efforts rather than as an endorsement of specific recommendations. It understood the call to "take into consideration the concluding comments as well as the general recommendations" of the Committee to refer to recommendations that were consistent with the Committee's mandate. States Parties were under no obligation to change policies and laws that were fully consistent with their obligations under the Convention, such as laws protecting unborn children by prohibiting or restricting abortion. His country objected to the use of the term "health-care services" in paragraph 7 (j) because the phrase "reproductive health services" and variants thereof appearing in United Nations documents were taken by some to include abortion. Because the modest changes proposed by his country had not been accepted, his delegation would dissociate itself from the consensus.

25. **Ms. Gendi** (Egypt) said that her delegation had joined the consensus on the understanding that nothing in the resolution permitted or promoted abortion or the right to abortion.

26. **Mr. Elshakshuki** (Libyan Arab Jamahiriya) said that his delegation had joined the consensus on the understanding that references to sexual and reproductive health services in paragraph 7, subparagraphs (n) and (o) of the resolution did not include anything inconsistent with the Islamic sharia or his country's national legislation, and in particular did not include abortion, which was permitted only in specific circumstances.

27. **Mr. Bahreini** (Islamic Republic of Iran) said that his country interpreted the content of this resolution, in particular as it related to sexual and reproductive health, in a manner consistent with its national law, and reserved its rights with respect to United Nations conventions to which it was not a party.

28. **The Chairman**, in accordance with General Assembly decision 55/488, proposed that the Committee take note of the Report of the Committee on the Elimination of Discrimination against Women (A/63/38), the Report of the Secretary-General on supporting efforts to end obstetric fistula (A/63/222), the Report of the Secretary-General on trafficking in women and girls (A/63/215), the Report of the Secretary-General on improvement of the status of women in the United Nations system (A/63/364), and the Note by the Secretary-General on activities of the United Nations Development Fund for Women (A/63/205).

29. *It was so decided.*

**Agenda item 64: Promotion and protection of human rights** (*continued*)

**(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms** (*continued*) (A/C.3/63/L.22/Rev.1)

*Draft resolution A/C.3/63/L.22/Rev.1: Combating defamation of religions*

30. **The Chairman** informed the Committee that the draft resolution had no programme budget implications.

31. **Ms. Awino-Kafeero** (Uganda) introduced the draft resolution on behalf of the sponsors: the 57 States members of the Organization of Islamic Conference and, in addition, Belarus and the Bolivarian Republic of Venezuela. The sponsors regretted that some States had chosen from the start not to enter into a constructive dialogue on the alarming trend towards defaming religions. The revised text of the draft resolution reflected concerns raised during several rounds of consultations, and not only signalled a change in approach in dealing with the issue but stressed that the defamation of any religion was a serious affront to human dignity, a restriction of the freedom of religion, and an incitement to religious hatred and violence. Those who claimed that the

concept of defamation of religions had no international legal basis overlooked the fact that the United Nations Global Counter-Terrorism Strategy committed all States to promote a culture of peace and respect all religions and beliefs, and to prevent the defamation of religions. Her delegation hoped that the negative reaction by some delegations to the draft resolution under consideration did not signal a departure from their commitment to that Strategy.

32. She announced a revision of the text: in the eighth preambular paragraph, the word "illegal" before the word "immigration" should be replaced by the word "irregular".

33. **The Reverend Bené** (Observer for the Holy See), referring to the belief that certain religious ideas and figures deserved protection by the State in order to ensure that the sensibilities of believers were not offended, observed that in multicultural societies, appropriate measures must be taken to guarantee respect for the different faiths. Nonetheless, the notion of defamation of religions risked removing the focus away from the basic right of individuals and groups and to the protection of institutions, symbols and ideas; furthermore, it could lend itself locally to support for laws that penalized religious minorities and stifled legitimate dialogue among persons of different faiths and cultures.

34. Believers had to be protected from hate speech and acts against their convictions, but the protection could best be achieved by insuring the right of individuals and communities to religious freedom, as set forth in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

35. **Mr. Attiya** (Egypt) noted that the draft resolution was significant and had incorporated many changes and a general change of approach. It concerned the defamation of all religions without exception. It took account of the concern of some delegations for the protection of religious minorities in their societies, and did so within the context of the relevant human rights instruments.

36. **The Chairman** said that a recorded vote had been requested and invited members who wished to do so to explain their vote before the vote.

37. **Mr. Malhotra** (India) said that his delegation was firmly opposed to the stereotyping of any religion. The draft resolution was an improvement over those of other years but it still focused on a single religion, whereas the emphasis should be on all religions. His delegation would therefore abstain in the vote.

38. **Mr. McMahan** (United States of America) said that his delegation agreed with several of the general tenets regarding denigration of religion in the draft text: the importance of education, concern about perpetuation of stereotypes, respect for all persons regardless of religion or belief and the consideration of a variety of religious traditions rather than an exclusive focus on one of many, as in years past. His Government deplored hateful speech and would work closely with others to map out appropriate responses and remedies for intolerance.

39. Freedom of expression meant freedom also to challenge the ideologies of hate through more speech, more information and more dialogue, not less. Some, however, were seeking to restrict freedom of expression and by doing so were contributing to more divisiveness. Without the freedom to share thoughts and opinions in an open atmosphere, there was no hope of breaking down the barriers that led to violence and hate. All Member States should call to account those who misused United Nations resolutions to harass, torture or jail individuals for nothing more than the expression of their opinions or beliefs.

40. The United States was also concerned that the language in the resolution appeared to suggest that, like an individual's race, one's religion was a characteristic that could not be changed — an idea that conflicted with the explicit language of article 18 of the Universal Declaration on Human Rights. Governments must respect the right of individuals to choose any particular religion or none at all, as well as to change religions and to manifest their religion in teaching, practice or observance. His Government believed it was unhelpful and incorrect to suggest that the issues of racism and religious discrimination were one and the same; those two important issues merited separate consideration.

41. For those reasons, his delegation would vote against the draft resolution.

42. **Mr. Renie** (France), speaking on behalf of the European Union; the candidate countries Croatia and the former Yugoslav Republic of Macedonia; the

stabilization and association process country Montenegro; and, in addition, Norway, the Republic of Moldova and Ukraine, expressed firm belief in tolerance, non-discrimination and freedom of expression, thought, conscience, religion or belief, all principles on which the European Union was founded.

43. Only a common approach could combat religious discrimination and incitement to religious hatred. Differences of viewpoint must be overcome. The European Union thanked the Organization of the Islamic Conference for having started consultations on the draft resolution early on. Given the indivisibility of human rights, the European Union believed that freedom of expression was the very manifestation of freedom of thought, conscience, religion or belief. It was therefore basic to distinguish between criticism of religions or beliefs and incitement to religious hatred. Only the latter, as defined in article 20 of the International Covenant on Civil and Political Rights, should be forbidden, because religious pluralism demanded the right of every individual to criticize, discuss and contest the values and convictions of others. Tensions would never be reduced by preventing people from expressing ideas about religion and belief. The more freedom of religion there was, the less intolerance there would be. A comprehensive approach to eliminating intolerance must combine prevention, dialogue, education, and the promotion of tolerance and pluralism.

44. The European Union agreed that there should be a shift from viewing defamation of religions in sociological terms to viewing it in terms of legal norms against incitement to national, racial or religious hatred, for which the national laws against hate speech had proven sufficient. The European Union would continue to take a balanced approach, in both the General Assembly and the Human Rights Council, to the issue of incitement to religious hatred; but in situations where basic rights seemed to conflict, only the courts were empowered to determine the limits under the law of the exercise of a specific right. The discussion of incitement to hatred should not be in political terms but on legal grounds.

45. Furthermore, the European Union was convinced that the concept of defamation of religions was not compatible with a discussion on human rights and that it was misplaced to combine the two. The thrust of international human rights law was to protect individuals in the exercise of their freedom of religion or conviction, not to protect religions as such. If the focus was on an obligation to protect a religion, the notion of defamation of religions could be used to justify restrictions of certain human rights such as the protection of persons belonging to religious minorities, or to justify curtailing the exercise of certain rights, especially freedom of expression and freedom of religion or belief itself. Since the presupposition that religions in themselves must be protected was not acceptable to the European Union, it had been unable to propose amendments to a text whose approach it did not share.

46. For all those reasons, it would vote against the draft resolution.

47. *At the request of the representative of the United States of America, a recorded vote was taken on draft resolution A/C.3/62/L.22/Rev.1, as orally revised.*

*In favour:*

Afghanistan, Algeria, Antigua and Barbuda, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Bhutan, Bolivia, Bosnia and Herzegovina, Brunei Darussalam, Cambodia, Chad, China, Comoros, Congo, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Djibouti, Dominica, Egypt, El Salvador, Eritrea, Ethiopia, Fiji, Guinea, Guinea-Bissau, Guyana, Honduras, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Malaysia, Maldives, Mali, Mauritania, Mauritius, Morocco, Mozambique, Myanmar, Nicaragua, Niger, Nigeria, Oman, Pakistan, Philippines, Qatar, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Sierra Leone, Singapore, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Togo, Tunisia, Turkey, Turkmenistan, Uganda, United Arab Emirates, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zimbabwe.

*Against:*

Andorra, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania,

Luxembourg, Malta, Micronesia (Federated States of), Monaco, Montenegro, Netherlands, New Zealand, Norway, Palau, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Samoa, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

*Abstaining:*

Angola, Argentina, Armenia, Belize, Benin, Botswana, Brazil, Burkina Faso, Burundi, Cameroon, Cape Verde, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, Equatorial Guinea, Ghana, Grenada, Guatemala, Haiti, India, Japan, Kenya, Madagascar, Malawi, Mexico, Mongolia, Namibia, Nauru, Nepal, Panama, Papua New Guinea, Paraguay, Peru, Rwanda, Timor-Leste, Trinidad and Tobago, United Republic of Tanzania, Uruguay, Vanuatu, Zambia.

48. *Draft resolution A/C.3/63/L.22/Rev.1, as orally revised, was adopted by 85 votes to 50, with 42 abstentions.*

49. **Mr. Akindele** (Nigeria) said that Nigeria enjoyed a multiethnic and multicultural society and had made freedom of religion a priority in its Constitution. Any attempt at denigrating religion was unacceptable; furthermore, it was important to encourage interfaith dialogue. His delegation had therefore voted in favour of the draft resolution.

50. **Mr. Llanos** (Chile) said that the freedoms of religion and expression were basic human rights that should not be limited, except where provided for in international legal instruments. Any propaganda in advocacy of national, racial or religious hatred that would constitute incitement to discrimination should be prohibited by law. Moreover, measures to counter defamation of religions should not be used to undermine the right to freedom of expression, which was essential to strengthening the rule of law and the democratic process.

51. **Mr. Suárez** (Colombia) said that freedom of religion and the equality of religious faiths before the law were enshrined in the Colombian Constitution. The media could also help promote greater understanding among all religions, beliefs, cultures and peoples, thereby facilitating dialogue among societies and creating an environment conducive to the exchange of human experience.

52. His delegation had abstained in the vote on the draft resolution, as in previous years, owing to sections that remained ambiguous and could result in unjustifiable limitations on freedom of expression that ran counter to the definitions of that right in the relevant international instruments ratified by Colombia and incorporated in its Constitution. He hoped that it would be possible to clarify the concept of defamation of religions, in order to ensure that its interpretation respected the right to freedom of expression in all its aspects.

53. **Mr. Perez** (Brazil) said that his delegation had abstained in the vote, because while the draft resolution contained a number of positive elements, Brazilian law did not prohibit the defamation of religions, in accordance with article 19, paragraph 3, and article 20, paragraph 2, of the International Covenant on Civil and Political Rights, but rather the incitement to hatred or discrimination based on, inter alia, religion. It sought to protect not religions per se, but the right of all individuals to freely exercise the religion of their choice. Brazilian law also guaranteed the freedom of expression, which was recognized in other international instruments. The issue of defamation of religions should not be considered from a political perspective but from a strictly legal one, and should be addressed through the elimination of incitement to hatred based on religion and greater tolerance. It was of the utmost importance to treat islamophobia, christianophobia and anti-semitism, as well as any other form of religious discrimination, on the same footing. To do otherwise would invite accusations of selectivity, politicization and the use of double standards in addressing human rights situations around the world.

54. **Mr. Sng** (Singapore) said that his delegation had voted in favour of the draft resolution on the understanding that it applied to all religions. He expressed concern with regard to the oral revision of the eighth preambular paragraph, which should be interpreted in accordance with each country's national legislation and policies on immigration.

55. Singapore was a multiracial, multireligious State. It was important to foster tolerance and to prevent the defamation of religions, which bred intolerance and distrust, and undermined social harmony. Social

responsibility and accountability should guide the exercise of one's right to freedom of expression; mutual respect should not be sacrificed in pursuit of that right. Harmful rhetoric and demonization along racial, cultural and religious lines often led to conflict and violence and had no place in any society.

56. His delegation supported efforts to combat religious defamation. It recognized the value of diversity and felt strongly that it must do what it could to combat intolerance.

*Draft resolution A/C.3/63/L.42/Rev.1: The right to food*

57. **The Chairman** said that the draft resolution had no programme budget implications.

58. **Ms. Pérez Álvarez** (Cuba) said that the draft resolution was being considered against the backdrop of the global food and financial crises, which had serious consequences for the right to food, especially in countries of the South.

59. The causes of the food crisis were systemic, arising out of the unfair distribution of wealth at the global level and the unsustainable neoliberal economic model imposed on countries of the South. She welcomed the rapid response of the Human Rights Council to the food crisis in holding its first-ever special session on the impact of the global food crisis on the right to food as well as its follow-up activities. The draft resolution should not be considered only in the context of the current crisis; rather, it should reflect a more general approach on how to ensure the right to food over the long term.

60. The following had joined the sponsors of the draft resolution: Albania, Andorra, Austria, Bangladesh, Belgium, Brazil, Bulgaria, the Central African Republic, Chad, the Comoros, Cyprus, France, Germany, Grenada, Guinea-Bissau, Hungary, Ireland, Italy, Jamaica, Japan, Jordan, Montenegro, Nauru, Norway, Papua New Guinea, Portugal, the Republic of Moldova, Romania, Saint Lucia, Saint Kitts and Nevis, Samoa, San Marino, Slovenia, Solomon Islands, Somalia, Spain, Tajikistan, Thailand, Trinidad and Tobago, Turkmenistan and Tuvalu.

61. Several revisions should be made to the English and Spanish versions of the draft resolution. With regard to the English version, she suggested the insertion, after the sixteenth preambular paragraph, of an additional preambular paragraph, which would read: "Acknowledging the High-level Task Force on the Global Food Security Crisis established by the Secretary-General, and supporting the Secretary-General to continue his efforts in this regard, including the continued engagement with Member States and the Special Rapporteur on the Right to Food."

62. In paragraph 14, the phrase ", inter alia," should be inserted following the words "such as". Paragraph 25 should be revised to read "Also stresses that States parties to the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) should consider implementing that Agreement in a manner supportive of food security while mindful of the obligation of Member States to promote and protect the right to food;". Finally, in paragraph 32, the phrase "on Economic, Social and Cultural Rights" should be inserted following the word "Committee". She also made a number of changes to the Spanish text of the draft resolution in order to bring it into line with the English text.

63. **Mr. Khane** (Secretary of the Committee) announced that Afghanistan, Antigua and Barbuda, Cape Verde, Chile, the Congo, the Democratic People's Republic of Korea, Dominica, the Dominican Republic, Greece, Luxembourg, Malaysia, Maldives, Myanmar, the Philippines, the Republic of Korea, Switzerland, Togo, Turkey, the United Arab Emirates and Yemen had become sponsors.

64. **Mr. Elshakshuki** (Libyan Arab Jamahiriya) said that his country's name had been misspelled in the Arabic version of the draft resolution and requested the Secretariat to make the appropriate changes.

65. *At the request of the representative of the United States of America, a recorded vote was taken on draft resolution A/C.3/62/L.42/Rev.1, as orally revised.*

*In favour:*

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Djibouti, Dominica, Dominican

Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Uzbekistan, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

*Against*:

United States of America.

*Abstaining*:

None.

66. *Draft resolution A/C.3/63/L.42/Rev.1, as orally revised, was adopted by 180 votes to 1.**

67. **Mr. McMahan** (United States of America) said that while he supported many elements of the draft resolution, he could not support the text as drafted. The attainment of the right to adequate food or the right to be free from hunger were goals to be realized progressively but that did not give rise to any international obligation or diminish the responsibilities of national Governments to their citizens. Because of numerous objectionable provisions, including inaccurate textual descriptions of the underlying right to food, his delegation had, as in the past, voted against the draft resolution.

68. As the world's leading food donor, however, the United States continued to support the right to food and would continue to work to bring food security to all. He hoped that the future sponsors of similar resolutions would work with his delegation to accommodate its concerns so that it could adopt future resolutions on the right to food.

69. **Ms. Hopkins** (United Kingdom) said that her delegation had voted in favour of the resolution; however, that vote should not be seen to reflect a change in position on the part of her Government regarding collective rights. Indeed, notwithstanding the inclusion of paragraph 13 of the draft resolution, her country did not recognize the concept of collective human rights in international law, with the exception of the right to self-determination.

70. Indigenous individuals were entitled to the full protection of their human rights and fundamental freedoms in international law on an equal basis with all other individuals. It was important to ensure that individuals within groups were not left vulnerable or unprotected by allowing rights of a group to supersede the human rights of an individual. That was without prejudice to her country's recognition of the fact that the Governments of many States with indigenous populations had granted them various collective rights in their national legislation.

71. **Ms. Janson** (Canada) said that her country supported the progressive realization of the right to adequate food as part of everyone's right to an adequate standard of living and had therefore voted in favour of the resolution. Nevertheless, she wished to express concern with regard to paragraph 24, as there was no established link between the TRIPS Agreement and the concept of food security and the right to food. Canada's interpretation of the paragraph was that it simply encouraged WTO members to consider the manner in which they implemented the TRIPS Agreement but in no way instructed them on the substantive implementation of the Agreement. Moreover, nothing in the Agreement prevented States

* The delegation of Guatemala subsequently informed the Committee that it had intended to vote in favour of the draft resolution.

from pursuing the objectives of the right to food or food security.

72. **Mr. Vigny** (Switzerland) said his delegation had voted in favour of the draft resolution following long and difficult negotiations. He hoped that, in future negotiations on similar resolutions, the main sponsor would lead open-ended informal consultations throughout the process in order to ensure more transparency.

73. **Mr. Rastam** (Malaysia) said that his delegation had voted in favour of the draft resolution. It was important to address the negative impacts of the food crisis and to recognize the primary responsibility of States in that regard. The right to food was a universal human right, the realization of which urgently required synergized action by all Member States.

74. **Mr. Gonnet** (France), speaking on behalf of the European Union; the candidate countries the former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process countries Albania, Bosnia and Herzogovina, and Montenegro; and, in addition, the Republic of Moldova and Ukraine, said that States must adopt an approach based on human rights, as enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, in order to ensure food security and eradicate poverty.

75. States had the primary responsibility for satisfying the basic needs of their people. Good governance and the full enjoyment of all rights were essential to guarantee sustainable food security. Tenure security and the right to adequate food were clearly linked; the strengthening of women's rights was necessary for the realization of that right. States must take human rights into account when developing national strategies on ensuring the right to adequate food. In that connection, he urged the main sponsor to place greater emphasis on human rights in future resolutions on the right to food.

76. With regard to paragraph 13 of the draft resolution, the European Union supported a rules-based international system. While it was in favour of the differentiated treatment of developing countries, within a well-defined framework and conditions, it opposed the development by States of policies that were inconsistent with the rules-based international system currently in place.

77. Emphasis should also be placed on the strengthening of human rights, and not solely on promoting agricultural production. Focusing on national production rather than on individual rights did not fulfil the needs of poor urban dwellers or subsistence farmers: the fact that they were not as productive as large-scale farmers did not mean they were any less entitled to the right to adequate food.

78. **Ms. Anttila** (Finland) said that as a traditional sponsor of the resolution on the right to food, her country regretted having to withdraw its sponsorship at the sixty-second session. As a strong advocate of the United Nations Declaration on the Rights of Indigenous Peoples, it had not been able to accept the last-minute amendment whereby the reference to that instrument had been weakened. Despite considerable efforts during the current session by the main sponsor, her delegation still could not fully agree with the compromise wording in paragraph 12, and would therefore not be in a position to sponsor the current draft. Nevertheless, as a result of constructive negotiations, the overall form of the current resolution had allowed her country to join its European Union partners in supporting it, and her delegation looked forward to being able to sponsor the resolution at future sessions.

79. **Mr. Suárez** (Colombia) said that his delegation had voted in favour of the draft resolution, because it considered that the right to food was an important element of the basic right to life and personal integrity. With regard to paragraph 25 of the draft resolution, trade-related aspects of intellectual property rights were independent from the United Nations and should remain within the scope of WTO. Furthermore, his delegation understood paragraph 14 as simply suggesting the examination of a concept for further clarification, as food sovereignty was not defined in any international agreement.

*Draft resolution A/C.3/63/L.30/Rev.1: The right to development*

80. **Mr. Khane** (Secretary of the Committee), presenting a statement of programme budget implications in accordance with rule 153 of the rules of procedure of the General Assembly, said that under paragraphs 2, 3 and 36 of the draft resolution, the General Assembly would support the mandate of the Working Group, with the recognition that the Working Group would convene an annual session of five

working days and present its reports to the Council; support the realization of the mandate of the high-level task force, with the recognition that the task force would convene annual sessions of seven working days and present its reports to the Working Group; and provide the Office of the High Commissioner for Human Rights with necessary resources. In response to draft resolution A/C.3/63/L.57 endorsing the recommendations of the Human Rights Council, the Secretariat was preparing a statement of programme budget implications that provided for the additional $235,800 required to support those activities, supplementary to the $417,200 already included under section 23 of the programme budget for the biennium 2008-2009. In addition to the provisions of section 23, provisions had been included under section 2, General Assembly and Economic and Social Council Affairs and Conference Management, and section 28 (e), Administration, to provide the required conference servicing to the Working Group and the Task Force. Accordingly, should the draft resolution be adopted, there would be no requirement for additional appropriation under the programme budget for the biennium 2008-2009.

81. **Mr. Amorós Nuñez** (Cuba) said that the draft resolution was consistent with the Declaration on the Right to Development, which had been reaffirmed in the Vienna Declaration and Programme of Action, and which stated that the right to development was an inalienable human right and that equality of opportunity for development was a prerogative both of nations and of individuals. Consideration should be given to the establishment of an international legally binding instrument on the right to development.

82. In paragraph 22 of the draft resolution, the words "the result ..." should be changed to "a result ...". In paragraph 33, the phrase "to promote their rights" should be changed to "to promote and protect their rights," and the phrase "in accordance with recognized international human rights obligations" should be changed to "in accordance with human rights obligations".

83. **Mr. Khane** (Secretary of the Committee), announced that Brazil had become a sponsor of the draft resolution.

84. **Mr. McMahan** (United States of America), speaking in explanation of vote before the voting, said that his delegation understood the term "right to development" to mean that each individual should enjoy the right to develop his or her intellectual or other capabilities to the maximum extent possible through the exercise of the full range of civil and political rights. As in previous years, his delegation objected to any discussion of a possible legally binding instrument on the right to development. It did not believe that the draft resolution would contribute to the United States' long-standing commitment to international development and to helping nations achieve sustainable economic growth. It would therefore vote against the draft resolution.

85. **Mr. Gonnet** (France), speaking on behalf of the European Union; the candidate countries Croatia, the former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process countries Bosnia and Herzegovina, and Serbia; members of the European Free Trade Association which are also members of the European economic area Iceland and Norway; and, in addition, Republic of Moldova and Ukraine, in explanation of vote before the voting, said that the European Union remained firmly committed to the establishment of the right to development for all. It supported the draft resolution and welcomed the constructive atmosphere that had prevailed throughout the negotiations.

86. As stated in the Vienna Declaration and Programme of Action, the right to development was an integral part of fundamental rights and the lack of development may not be invoked to justify the abridgement of internationally recognized human rights. It was a responsibility of States to create favourable conditions for development and to guarantee the full enjoyment of all universal and legally recognized human rights. The European Union would continue to play an active role in the establishment of the right to development by developing voluntary partnerships, supporting programmes and participating in dialogue at both national and international levels.

87. The European Union would be voting in favour of the draft resolution for the same reasons that had enabled it to join the consensus on Human Rights Council resolution 9/3, based on its understanding that the positive work being done by the high-level task force on the implementation of the right to development and the Working Group on the Right to Development was not necessarily a process leading

towards an international legal standard of a binding nature.

88. While paragraph 11 of the draft resolution encouraged the Human Rights Council to ensure follow-up to the work of the former Subcommission on the Promotion and Protection of Human Rights, the European Union believed that, in accordance with Human Rights Council resolution 5/1, it was entirely the responsibility of the Human Rights Council to make decisions with regard to any follow-up to the work of the Subcommission, as well as any tasks to be entrusted to the body that would succeed it, the Advisory Committee. Secondly, since there were two bodies responsible for the right to development — the Working Group on the Right to Development and the high-level task force on the implementation of the right to development composed of independent experts — the European Union did not believe it necessary to consider a third.

89. *At the request of the representative of the United States of America, a recorded vote was taken on draft resolution A/C.3/63/L.30/Rev.1, as orally revised.*

*In favour*:

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Uzbekistan, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

*Against*:

United States of America.

*Abstaining*:

Canada, Israel.

90. *Draft resolution A/C.3/63/L.30/Rev.1, as orally revised, was adopted by 177 votes to 1, with 2 abstentions.*

91. **Ms. Hopkins** (United Kingdom) said that her country welcomed the adoption of the important draft resolution on the right to development. The United Kingdom played an active role in promoting the right to development through active engagement at national and international levels. However, it wished to register its concern over the reference to "indigenous peoples" in paragraph 33 of the draft resolution. As stated in its interpretive statement made on 29 June 2006 at the adoption of the United Nations Declaration on the Rights of Indigenous Peoples, the United Kingdom considered that indigenous "individuals" — rather than "peoples" — were entitled to the full protection of their human rights and fundamental freedoms in international law on an equal basis with all other individuals, as human rights were universal and equal to all and did not belong to any one group over another. That was a long-standing and well-established position, as it was important to ensure that individuals within groups were not left vulnerable by allowing the rights

of the group to supersede the rights of the individual. That position was without prejudice to the United Kingdom's recognition of the fact that the Governments of many States with indigenous populations had granted them various collective rights in their constitutions, national laws and agreements. The United Kingdom therefore did not accept that paragraph 33 of the draft resolution established collective rights.

92. **Ms. Janson** (Canada) said that her country supported the concept of the right to development and viewed it as a useful bridge between all human rights, whether civil, political, economic, social or cultural. Canada was an active participant in the United Nations Working Group on the Right to Development and had been pleased to join consensus on the conclusions and recommendations of its most recent session and on the resolution on the right to development adopted at the ninth session of the Human Rights Council.

93. While the text of the current draft resolution was an improvement on that of the previous year, Canada still had substantive concerns. The draft resolution still referred to creating new legal standards for the right to development, though it was premature to assume that new standards would be necessary until the Working Group and the task force had completed their work. A legally binding instrument should be only one of many options that could be considered in the future. In addition, the text of the draft resolution focused too much on the international enabling environment surrounding the right to development. Efforts should be made to focus more on the primary responsibility of each State to promote and protect the human rights of citizens within its own jurisdiction.

94. **Mr. Vigny** (Switzerland) said that his country had been able to vote in favour of the draft resolution on the right to development, in spite of the reference to an international legal standard of a binding nature in paragraph 8. While Switzerland was prepared to accept guidelines on the implementation of the right to development, it had reservations with regard to an international legal standard of a binding nature on the issue. Accepting paragraph 8 of the draft resolution did not prejudice the final position that Switzerland might take on the matter in the future.

95. **Ms. Anttila** (Finland) said that her country was a devoted supporter of economic, social and cultural rights; therefore its overall response to the draft resolution had been positive. However, as a strong advocate for the promotion and protection of the rights of indigenous peoples, she expressed regret that the reference in paragraph 33 to the United Nations Declaration on the Rights of Indigenous Peoples was not yet strong enough.

*Draft resolution A/C.3/63/L.35/Rev.1 and amendments contained in documents A/C.3/63/L.74 and L.75: Extrajudicial, summary or arbitrary executions*

96. **Mr. Khane** (Secretary of the Committee), in accordance with rule 153 of the rules of procedure of the General Assembly, said that under the terms of paragraph 19 of draft resolution A/C.3/63/L.35/Rev.1, the General Assembly would request the Secretary-General to provide the Special Rapporteur with adequate human, financial and material resources to enable him to carry out his mandate effectively, including through country visits. An amount of US$ 147,000 per biennium was included under section 23 of the programme budget for the biennium 2008-2009 for the activities of the Special Rapporteur. Therefore, if the Committee should adopt the draft resolution, there would be no requirement for additional appropriation under the programme budget for that biennium.

97. **Ms. Schlyter** (Sweden), introducing draft resolution A/C.3/63/L.35/Rev.1 on behalf of the five Nordic countries and the other sponsors, announced that the Dominican Republic and Mexico had also joined the sponsors, bringing the total number to 62. The changes introduced reflected the outcome of informal and bilateral consultations and addressed, inter alia, concerns with the language regarding national level commissions, the relationship between international human rights law and international humanitarian law, and the responsibility of States to protect their populations from large-scale occurrences of extrajudicial, summary or arbitrary executions.

98. Negotiations on paragraph 5 had continued until earlier that day. As the text had been put to a vote in the past, delegations had approached it from the point of view that consensus should be possible on the notion that the death penalty should only be used within the framework of internationally agreed safeguards and limitations. A revised text had been agreed, which should read:

"*Calls upon* all States, in order to prevent extrajudicial, summary and arbitrary executions, to comply with their obligations under relevant provisions of international human rights instruments; and further calls upon those States which have not abolished the death penalty to pay particular regard to the provisions contained in articles 6, 14 and 15 of the International Covenant on Civil and Political Rights and articles 37 and 40 of the Convention on the Rights of the Child, bearing in mind the safeguards and guarantees set out in Economic and Social Council resolutions 1984/50 of 25 May 1984 and 1989/64 of 24 May 1989, and taking into account the recommendations of the Special Rapporteur regarding the need to respect essential procedural guarantees, including the right to seek pardon or commutation of sentence;"

99. Negotiations had also continued on the text of paragraph 6 (b), listing categories of persons particularly vulnerable to extrajudicial, summary or arbitrary executions, but despite the efforts made, consensus had not yet been reached. Since full consensus had not been completely achieved on the text, the progress made should serve as a starting point for future negotiations on the issue. There had never been any doubt that all delegations shared the core concern expressed in the draft resolution: the crucial need to combat extrajudicial, summary and arbitrary executions in all their forms.

100. **Ms. Awino-Kafeero** (Uganda), speaking on behalf of the States Members of the United Nations that were members of the Organization of the Islamic Conference (OIC), said that in light of the oral revision of paragraph 5 made by the representative of Sweden, she was able to withdraw the proposed amendment contained in document A/C.3/63/L.74.

101. Turning to the amendments contained in document A/C.3/63/L.75, she said that during the negotiations on the draft resolution, the OIC had repeatedly requested that the case of peoples under foreign occupation be addressed, since they were likely to be subject to extrajudicial, summary or arbitrary executions. The sponsors of the draft resolution had then tried to shift the focus from the rights of those peoples to foreign occupation in itself. In response to the insistence of the OIC on addressing the plight of those peoples, the sponsors had produced the text as it currently stood in draft resolution A/C.3/63/L.35/Rev.1, which diluted the reference to those peoples by adding a list of other irrelevant cases and de-linking peoples under foreign occupation from refugees, internally displaced persons and migrants, often a result of foreign occupation. People affected by foreign occupation could well be the population of a neighbouring State, affected by the instability across their borders, the economic situation of the region, or the influx of migrants. The OIC believed that all attempts to avoid the core issues of the rights of peoples living under foreign occupation would only serve to augment the adverse consequences of their situations. Clarity on that important issue was the key to confirming the international community's commitment and responsibility to the universal realization of the right of peoples under foreign occupation to self-determination. The OIC therefore had no alternative but to submit for the consideration of the Committee the amendments contained in paragraphs 1 (a) and (b) of document A/C.3/63/L.75.

102. Although the notion of sexual orientation had no legal foundation in any international human rights instrument, the OIC acknowledged that some Member States might have accepted it. However, that did not justify highlighting that controversial notion, while ignoring that discrimination also existed on the basis of other factors, including colour, race, gender and religion. In the spirit of seeking consensus, the OIC had proposed using generic language that covered all types of discrimination. The sponsors of the draft resolution had, however, been reluctant to accept the proposal, even though it could have enabled many OIC Member States to join consensus and even to become sponsors. Therefore, the OIC wished to submit the amendment contained in paragraph 1 (c) to the Committee for its consideration.

103. The OIC urged the sponsors of the draft resolution to consider the amendments favourably so that draft resolution A/C.3/63/L.35/Rev.1 could be adopted by consensus. However, if a vote was requested on the amendments contained in document A/C.3/63/L.75, the OIC requested that the vote should be taken in two parts: on paragraphs 1 (a) and (b) together; then separately on paragraph 1 (c).

104. **Ms. Schlyter** (Sweden) noted with regret that, after the efforts to satisfy the concerns raised regarding paragraph 6 (b), the amendments proposed in document A/C.3/63/L.75 remained on the table. Neither amendment was acceptable to her delegation. She

therefore requested that a recorded vote be taken on the amendments proposed in document A/C.3/63/L.75, in two parts, as suggested by the representative of Uganda.

105. **Ms. Anttila** (Finland), speaking in explanation of vote before the vote, said that although protection from certain kinds of executions was the point of the draft resolution, the sponsors had decided for the first time to include a reference to persons under foreign occupation in paragraph 6 (b) in order to respond to the concerns of some delegations. The reference, however, had included all individuals, including those belonging to specific groups. The alternative wording on foreign occupation in the proposed amendment (A/C.3/63/L.75) clearly went beyond the original intent of the paragraph, at the same time excluding many important groups of individuals in vulnerable situations. The sponsors believed that the text as worded safeguarded the rights of the very same persons whom the sponsors of the amendment aimed to protect. Her delegation would vote against the amendment, which had been unacceptable to a number of delegations, and asked other delegations to vote against it as well.

106. **Ms. Schlyter** (Sweden), speaking in explanation of vote before the voting, said that after the OIC had proposed the inclusion of a reference to foreign occupation, the sponsors of the draft resolution had responded by including a reference in the revised proposed draft resolution A/C.3/63/L.35/Rev.1. The text proposed was based on what had been accepted in other resolutions, in the hope that it would be acceptable to all delegations. However, the proposal in document A/C.3/63/L.75 insisted on different language. Sponsors had then offered new language in an effort to reach consensus, but were told that only the language proposed in that document would be accepted by the members of the OIC.

107. She did not agree with the analysis presented by the representative of Uganda questioning the need for the reference to killings of persons affected by terrorism or hostage-taking. Her delegation believed it to be a useful addition to the draft resolution. It had proposed using the word "persons" rather than the word "peoples" because paragraph 6 (b) addressed the killings of individual persons rather than groups of people, and it was not intended to deny the importance of the issue of killings of peoples.

108. Voting against the amendments proposed in paragraphs 1 (a) and (b) of document A/C.3/63/L.75 was not a vote against a reference to foreign occupation in the draft resolution, since a reference was already present in the text. Her delegation would therefore be voting against the alternative wording contained in the proposed amendments.

109. **Ms. Winding** (Denmark), speaking in explanation of vote before the voting, said that her delegation fully aligned itself with the statement made by the representative of Sweden. Paragraph 6 (b) of draft resolution A/C.3/63/L.35/Rev.1 urged all States to ensure the effective protection of the right to life of all persons under their jurisdiction and to investigate promptly and thoroughly all killings, including those targeted at specific groups of persons. In response to concerns raised, the sponsors of the draft resolution had agreed to include among those groups persons affected by foreign occupation, terrorism and hostage-taking. The inclusion of those three elements brought the text closer to universal acceptance and was testimony to the willingness of the sponsors to take on board the concerns of all interested delegations. In order to maintain the broad compromise, all three elements should therefore be kept in the text.

110. The meaning and the specific implications of the language proposed in paragraph 1 of document A/C.3/63/L.75 referring to "peoples" was unclear. It introduced a collective dimension which was beyond the scope of paragraph 6 (b) of the draft resolution, which concerned the investigation of individual killings.

111. For those reasons, Denmark would vote against the proposals contained in paragraphs 1 (a) and (b) of document A/C.3/63/L.75.

112. **Ms. Halabi** (Syrian Arab Republic) said that draft resolution A/C.3/63/L.35/Rev.1 had not satisfied her delegation's concerns with respect to peoples suffering foreign occupation. The phrase "persons affected by foreign occupation" in paragraph 6 (b) was vague and did not necessarily include peoples suffering foreign occupation. Her delegation would therefore vote in favour of the amendment to draft resolution A/C.3/63/L.35/Rev.1 contained in document A/C.3/63/L.75.

113. *At the request of Sweden, a recorded vote was taken on paragraph 1 (a) and (b) of the amendment to*

*draft resolution A/C.3/63/L.35/Rev.1 contained in document A/C.3/63/L.75.*

*In favour:*

Algeria, Antigua and Barbuda, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Brunei Darussalam, Burkina Faso, Chad, China, Comoros, Congo, Cuba, Democratic People's Republic of Korea, Djibouti, Dominica, Egypt, Gabon, Gambia, Indonesia, Iran (Islamic Republic of), Iraq, Jordan, Kuwait, Lebanon, Liberia, Libyan Arab Jamahiriya, Malaysia, Maldives, Mali, Mauritania, Morocco, Nicaragua, Niger, Nigeria, Oman, Pakistan, Qatar, Saudi Arabia, Senegal, Sierra Leone, Singapore, Solomon Islands, South Africa, Sudan, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Tunisia, Turkey, Uganda, United Arab Emirates, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

*Against:*

Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Bhutan, Bosnia and Herzegovina, Brazil, Bulgaria, Cameroon, Canada, Chile, Colombia, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malawi, Malta, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Namibia, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Vanuatu.

*Abstaining:*

Afghanistan, Angola, Benin, Bolivia, Botswana, Burundi, Cambodia, Cape Verde, Costa Rica, Equatorial Guinea, Ethiopia, Grenada, Guinea, Guinea-Bissau, Haiti, Jamaica, Kenya, Lao People's Democratic Republic, Lesotho, Madagascar, Mongolia, Russian Federation, Rwanda, Saint Vincent and the Grenadines, Sri Lanka, Togo, Trinidad and Tobago, United Republic of Tanzania, Uzbekistan.

114. *The amendment to draft resolution A/C.3/63/L.35/Rev.1 contained in paragraph 1 (a) and (b) of document A/C.3/63/L.75 was rejected by 78 votes to 60, with 29 abstentions.*

*The meeting rose at 1.20 p.m.*